

BEFORE THE OFFICE OF THE COMMISSIONER OF RAILROADS

STATE OF WISCONSIN

Petition of the Town of Clayton for the Repair of the Public Crossings of the Wisconsin Central Ltd. Tracks with Four Streets in the Town of Clayton, Winnebago County

9164-RX-615

FINAL DECISION

By letter dated September 28, 2005, the Town of Clayton filed a complaint with the Office of the Commissioner of Railroads (OCR) under §86.12, Stats., that the Wisconsin Central Ltd. (WCL) has failed to maintain in good condition for public travel the public crossings of its tracks with four roadways in the Town of Clayton, Winnebago County. The crossings are:

Roadway	Crossing No.
Clayton Avenue	690 245T / MP 189.85
Oakwood Avenue	690 248N / MP 191.9
Fairview Road	690 252D / MP 193.63
Pioneer Road	689 922W / MP 194.54

The Town demanded the repairs by letter dated May 13, 2004.

Pursuant to due notice, public hearing was held in this matter on December 13, 2005 in Larsen, Wisconsin with hearing examiner Douglas S. Wood presiding.

On January 30, 2006, the hearing examiner issued a proposed decision. The Commissioner adopts the proposed decision as final without change.

Appearances:

Parties

Town of Clayton, Petitioner
by
Arden E. Schroeder, Town Chair
9458 STH 76
Neenah, WI 54956

No appearance by the Wisconsin Central Ltd.

Findings of Fact

THE COMMISSIONER FINDS:

The railroad currently operates about 25 train movements per day over each crossing location at a maximum speed of 60 mph.

Pioneer Road**689 922W / MP 194.54**

Pioneer Road is 19' wide and intersects the tracks at an angle of about 45°. The roadway approach grades are level. The roadway curves to the west approximately 900' north of the crossing, and curves to the east approximately 800' south of the crossing. In the area of the crossing between the curves, the road is tangent.

Pioneer Road carries about 225 ADT (average daily traffic). The speed limit on Pioneer Road is 55 mph.

The crossing is in poor condition for highway travel. The crossing surface is constructed with a timber-plank and asphalt surface. The rails have settled 2"-3" and the timbers are worn causing a rough ride. The crossing needs replacement.

The Town plans to resurface the roadway in the summer of 2006. The Town is willing to cooperate with the railroad to improve the approaches to the crossing at the same time.

Under §86.12, the railroad bears an obligation to keep all highway/rail crossings in good and safe condition for public travel. The railroad has failed to do so at this crossing. The crossing is at the end of its useful life and requires complete renewal.

Fairview Road**690 252D / MP 193.63**

Fairview Road is 20' wide and intersects the tracks at an angle of about 30°. The roadway approach grades are slightly descending through the crossing from west to east. However, the roadway does not level off at the tracks. The tracks are essentially flat. This conjunction creates a platform that causes a pronounced jolt when driving over the crossing.

Fairview Road carries about 800 ADT. The speed limit on Fairview Road is 55 mph.

The crossing is in poor condition for highway travel. The crossing surface is constructed with a three-rail and asphalt surface. The crossing surface is in very poor condition. The crossing needs replacement.

The railroad has failed to maintain this crossing. The crossing is at the end of its useful life and requires complete renewal.

The Town plans to resurface the roadway in the summer of 2006. The Town is willing to cooperate with the railroad to improve the approaches to the crossing at the same time.

Oakwood Avenue**690 248N / MP 191.9**

Oakwood Avenue is 21' wide and intersects the tracks at an angle of about 90°. The roadway approach grades are at a slight ascending grade on both approaches. The track is tangent through the crossing.

Oakwood Avenue carries about 125 ADT. The speed limit on Oakwood Avenue is 55 mph.

The crossing is in poor condition for highway travel. The crossing surface is constructed with a timber-plank and asphalt surface. The rails have settled 2"-3" causing a rough ride. The crossing needs replacement. This crossing is not in as bad a condition as the Pioneer Road and Fairview Road crossings so that the urgency to repair it is not as great.

The railroad has failed to maintain this crossing. The crossing is at the end of its useful life and requires complete renewal.

Clayton Avenue 690 245T / MP 189.85

Clayton Avenue is 21' wide and intersects the tracks at an angle of 90°. The roadway approach grades are level from the north and slightly descending from the south.

Clayton Avenue carries about 750 ADT. The speed limit on Clayton Avenue is 45 mph.

The crossing is in poor condition for highway travel. The crossing surface is constructed with a timber-plank and asphalt surface. The rails have settled 2"-3" causing a rough ride. The crossing needs replacement. This crossing is not in as bad a condition as the Pioneer Road and Fairview Road crossings so that the urgency to repair it is not as great.

The railroad has failed to maintain this crossing. The crossing is at the end of its useful life and requires complete renewal.

Medina Junction Road (693 841D / MP 195.3). At the hearing, the Town also related problems regarding the crossing condition of the Medina Junction Road crossing, however, this crossing was not included in the Town's petition to the OCR and thus can not be included in this order. It does appear that the **Medina Junction Road crossing is in very poor condition**. At this time the crossing has crossbucks and stop signs for warning devices. Consequently, the condition of the crossing is not as critical at this time. However, the crossing is scheduled to have new automatic flashing lights and gates installed in 2006. Once those automatic signals are installed traffic is likely to increase its speed over the tracks. The OCR strongly encourages the WCL to repair this crossing in 2006.

Ultimate Conclusions on the Issues

THE COMMISSIONER CONCLUDES:

That the Wisconsin Central Ltd. has failed to maintain in good and safe condition for public travel the crossings at-grade of Clayton Avenue, Oakwood Avenue, Fairview Road, and Pioneer Road with its tracks in the Town of Clayton, Winnebago County.

Conclusion of Law

THE COMMISSIONER CONCLUDES:

That the jurisdiction of the Office of the Commissioner of Railroads under §86.12, Wis. Stats., extends to this matter. Accordingly, the Office enters an order consistent with the findings of fact.

Order

THE COMMISSIONER ORDERS:

1. That the **Wisconsin Central Ltd.** shall repair the crossings at-grade of **Fairview Road and Pioneer Road** with its tracks by fully renewing the crossings in the Town of Clayton, Winnebago County **in coordination with Town of Clayton roadway projects and in any event no later than October 1, 2006.**

2. That the **Wisconsin Central Ltd.** shall repair the crossings at-grade of **Clayton Avenue and Oakwood Avenue** with its tracks by fully renewing the crossings in the Town of Clayton, Winnebago County **in coordination with Town of Clayton and in any event no later than October 1, 2007.**

3. That jurisdiction is retained.

Dated at Madison, Wisconsin, (February 21, 2006).

By the Office of the Commissioner of Railroads.

Rodney W. Kreunen
Commissioner of Railroads

9164F615